

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
O.M., on behalf of herself and her minor child,
L.P.,

Plaintiffs,

-against-

NEW YORK CITY DEPARTMENT OF
EDUCATION; THE BOARD OF EDUCATION
OF THE CITY SCHOOL DISTRICT OF THE
CITY OF NEW YORK; CHANCELLOR DAVID
BANKS in his official capacity; and
THE CITY OF NEW YORK,

Defendants.

ANALISA TORRES, District Judge:

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23 Civ. 4446 (AT)

ORDER

Having reviewed the parties' submissions filed on September 11, 19, 20, and 25, 2023, ECF Nos. 30–33, 35–38, 40, IT IS ORDERED:

1. The New York City Department of Education (the "DOE") shall immediately implement L.P.'s stay-put pendency program described in the Interim Stipulation, ECF No. 27 ¶ 3, including the provision of L.P.'s home-based feeding therapy.
2. The DOE shall arrange for L.P.'s feeding therapy to be initiated no later than October 5, 2023.
3. Should the DOE receive notice that feeding therapy has ceased, the DOE shall arrange for L.P.'s feeding therapy to be resumed as soon as practicable, and no later than ten business days following the DOE's receipt of such notice. In the event that the DOE is unable to secure a provider and arrange for feeding therapy to be initiated by that date, then, on the eleventh business day, and on a weekly basis thereafter, Defendants shall update Plaintiffs and the Court in writing as to the steps that the DOE has taken to secure a feeding therapist for L.P.

4. The DOE shall remit payment for feeding therapy services provided pursuant to this Order within 30 days of the DOE's receipt of a statement from the provider indicating the services provided, including the date, duration, nature, and hourly rate of those services.

5. The provider shall provide DOE at least five business days written notice in advance of any rate increase.

6. O.M. must immediately notify the DOE in writing if a provider terminates, or intends to terminate, feeding therapy to L.P.

7. O.M. will cooperate with the DOE as it searches for a provider who would bill the DOE directly, or as it searches for an employee to provide the feeding therapy directly.

8. The DOE shall continue to fund L.P.'s stay-put pendency program, including the provision of her feeding therapy either directly or indirectly, until the Court orders termination of L.P.'s pendency mandate or L.P.'s pendency terminates by operation of law.


9. All written notices to be provided by the feeding therapist or O.M. may be made by email.

IT IS FURTHER ORDERED that service of this Order upon the parties will be complete upon the filing of this Order by the Court on ECF; and

IT IS FURTHER ORDERED that the requirement under Rule 65(c) that a bond be posted is waived.

SO ORDERED.

Dated: October 3, 2023
New York, New York



ANALISA TORRES
United States District Judge